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Board of Vocational Nursing  
and Psychiatric Technicians

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**BEFORE THE  
BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. PT-2009-1163

**HENRY PAUL HOWARD  
5709 Smoketree Road, #128  
Phelan, CA 92371**

**A C C U S A T I O N**

**Psychiatric Technician License No. PT23912**

Respondent.

Complainant alleges:

**PARTIES**

1. Teresa Bello-Jones, J.D., M.S.N., R.N. (Complainant) brings this Accusation solely in her official capacity as the Executive Officer of the Board of Vocational Nursing and Psychiatric Technicians, Department of Consumer Affairs.

2. On or about April 18, 1985, the Board of Vocational Nursing and Psychiatric Technicians (Board) issued Psychiatric Technician License No. PT 23912 to Henry Paul Howard (Respondent). The Psychiatric Technician License was in full force and effect at all times relevant to the charges brought herein and will expire on July 31, 2011, unless renewed.

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1 **JURISDICTION**

2 3. This Accusation is brought before the Board, under the authority of the following  
3 laws. All section references are to the Business and Professions Code unless otherwise indicated.

4 **STATUTORY PROVISIONS**

5 4. Section 118, subdivision (b), of the Code provides that the suspension, expiration,  
6 surrender or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a  
7 disciplinary action during the period within which the license may be renewed, restored, reissued  
8 or reinstated.

9 5. Section 490 states:

10 "(a) In addition to any other action that a board is permitted to take against a licensee, a  
11 board may suspend or revoke a license on the ground that the licensee has been convicted of a  
12 crime, if the crime is substantially related to the qualifications, functions, or duties of the business  
13 or profession for which the license was issued.

14 "(b) Notwithstanding any other provision of law, a board may exercise any authority to  
15 discipline a licensee for conviction of a crime that is independent of the authority granted under  
16 subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties  
17 of the business or profession for which the licensee's license was issued.

18 "(c) A conviction within the meaning of this section means a plea or verdict of guilty or a  
19 conviction following a plea of nolo contendere. Any action that a board is permitted to take  
20 following the establishment of a conviction may be taken when the time for appeal has elapsed, or  
21 the judgment of conviction has been affirmed on appeal, or when an order granting probation is  
22 made suspending the imposition of sentence, irrespective of a subsequent order under the  
23 provisions of Section 1203.4 of the Penal Code."

24 6. Section 4520 of the Business and Professions Code (Code) provides, in pertinent part,  
25 that the Board may discipline any licensed psychiatric technician for any reason provided in  
26 Article 3 (commencing with section 4520) of the Psychiatric Technicians Law (Code § 4500, et.  
27 seq.).

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1           7.     Section 4521 of the Code states:

2           "The board may suspend or revoke a license issued under this chapter [the Psychiatric  
3     Technicians Law (Bus. & Prof Code, 4500, et seq.)] for any of the following reasons:

4           "(a) Unprofessional conduct, which includes but is not limited to any of the following:

5           . . . .

6           (5) Use any controlled substance as defined in Division 10 (commencing with Section  
7     11000) of the Health and Safety Code, or any dangerous drug as defined in Section 4022, or  
8     alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any  
9     other person, or the public or to the extent that the use impairs his or her ability to conduct with  
10    safety to the public the practice authorized by his or her license.

11          (6) Be convicted of a criminal offense involving the falsification of records concerning  
12    prescription, possession, or consumption of any of the substances described in paragraphs (4) and  
13    (5), in which event the record of the conviction is conclusive evidence of the conviction. The  
14    board may inquire into the circumstances surrounding the commission of the crime in order to fix  
15    the degree of discipline.

16          . . . .

17          "(f) Conviction of any offense substantially related to the qualifications, functions, and  
18    duties of a psychiatric technician, in which event the record of the conviction shall be conclusive  
19    evidence of the conviction. The board may inquire into the circumstances surrounding the  
20    commission of the crime in order to fix the degree of discipline."

21          8.     Health and Safety Code section 11054, subdivision (d)(13) states, in pertinent part:

22          "Hallucinogenic substances. Unless specifically excepted or unless listed in another  
23    schedule, any material, compound, mixture, or preparation, which contains any of its salts,  
24    isomers, and salts of isomers whenever the existence of those salts, isomers, and salts of isomers  
25    is possible within the specific chemical designation (for purposes of this subdivision only, the  
26    term "isomer" includes the optical, position, and geometric isomers): Marijuana.

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1 **COST RECOVERY**

2 12. Section 125.3 of the Code provides, in pertinent part, that the Board may request the  
3 administrative law judge to direct a licensee found to have committed a violation or violations of  
4 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
5 enforcement of the case.

6 **FIRST CAUSE FOR DISCIPLINE**

7 **(Criminal Convictions)**

8 13. Respondent is subject to disciplinary action under section 4521, subdivision (a) and  
9 (f), and section 490 of the Code, in conjunction with California Code of Regulations, title 16,  
10 section 2578, subdivision (c), in that Respondent has been convicted of crimes substantially  
11 related to the qualifications, functions or duties of a licensed psychiatric technician as follows:

12 14. a. On or about March 9, 2010, after pleading guilty, Respondent was convicted of  
13 one misdemeanor count of violating Vehicle Code section 23152, subdivision (b) [driving under  
14 the influence and while having a blood alcohol level of 0.08% or more], in the criminal  
15 proceeding entitled *The People of the State of California v. Henry Paul Howard* (Super. Ct. San  
16 Bernardino County, 2010, TV1902722). Respondent was court ordered to attend a 9-month  
17 alcohol treatment program, pay fines, and placed on probation for a period of 36 months with  
18 certain terms and conditions. The circumstances surrounding the conviction are that on or about  
19 October 9, 2009, the California Highway Patrol arrested Respondent for driving under the  
20 influence of an alcohol beverage and found that his continued operation of a motor vehicle would  
21 be unsafe.

22 b. On or about July 23, 2001, after pleading guilty, Respondent was convicted of  
23 one misdemeanor count of violating Vehicle Code section 23152, subdivision (b) [driving under  
24 the influence and while having a blood alcohol level of 0.08% or more], in the criminal  
25 proceeding entitled *The People of the State of California v. Henry Paul Howard* (Super. Ct. San  
26 Diego South County, 2001, S160072). Respondent was sentenced to 96 hours in custody and  
27 placed on probation for a period of 5 years with certain terms and conditions including fines. The  
28 circumstances surrounding the conviction are that on or about May 24, 2001, the California

1 Highway Patrol arrested Respondent for driving under the influence of an alcohol beverage and  
2 found that his continued operation of a motor vehicle would be unsafe.

3 c. On or about March 13, 1975, after pleading guilty, Respondent was convicted  
4 of one felony count of violating Health and Safety Code section 11359 [possession of marijuana  
5 for sale], in the criminal proceeding entitled *The People of the State of California v. Henry Paul*  
6 *Howard* (Super. Ct. San Bernardino County, 1975, F0006991). Respondent was sentenced to 15  
7 weekends in custody and placed on probation for a period of 36 months with certain terms and  
8 conditions. The circumstances surrounding the conviction are that on or about August 27, 1974,  
9 the San Bernardino Sheriff's arrested Respondent for possession of a controlled substance for  
10 sale.

### 11 **SECOND CAUSE FOR DISCIPLINE**

#### 12 **(Unprofessional Conduct/Dangerous Use of Alcohol)**

13 15. Respondent is subject to disciplinary action under section 4521, subdivisions (a) and  
14 (a)(5) of the Code, in conjunction with California Code of Regulations, title 16 section 2576.6,  
15 subdivision (b)(4), in that Respondent committed acts constituting unprofessional conduct by  
16 using alcohol beverages to an extent or in a manner dangerous to himself, other persons, or the  
17 public or to the extent that such use of alcoholic beverages impaired his ability to conduct with  
18 safety to the public the practice authorized by his license. Complainant refers to, and by this  
19 reference incorporates, the allegations set forth above in paragraph 14, subparagraphs (a) and (b),  
20 as though set forth fully.

### 21 **THIRD CAUSE FOR DISCIPLINE**

#### 22 **(Convictions Involving Alcohol)**

23 16. Respondent is subject to disciplinary action under section 4521, subdivision (a)(6), in  
24 that on or about March 9, 2010 and July 23, 2001, Respondent was convicted of crimes involving  
25 unlawful consumption of alcohol. Complainant refers to, and by this reference incorporates, the  
26 allegations set forth above in paragraph 14, subparagraphs (a) and (b), as though set forth fully.

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PRAYER

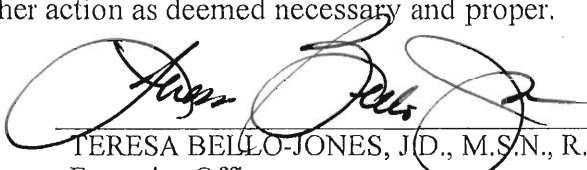
WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board issue a decision:

1. Revoking or suspending Psychiatric Technician License No. PT 23912, issued to Henry Paul Howard;

2. Ordering Henry Paul Howard to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and

3. Taking such other and further action as deemed necessary and proper.

DATED: April 7, 2011

  
TERESA BELLO-JONES, J.D., M.S.N., R.N.  
Executive Officer  
Board of Vocational Nursing and Psychiatric Technicians  
Department of Consumer Affairs  
State of California  
*Complainant*

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